

# ***Libby Linebarger***

State of Texas  
House of Representatives  
District 46



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REC'D

JUN 14 93

Opinion Committee

**RQ-566**  
MBJ

June 9, 1993

The Honorable Dan Morales  
Attorney General, State of Texas  
P.O. Box 12548  
Austin, TX 78711-2548

**FILE #** RQ-00566-DM  
AL-20721-93  
**I.D.#** 20721

Dear General Morales:

I respectfully request a legal opinion regarding certain questions of possible conflicts of interest.

**What, if any, conflicts of interest exist when spouses hold elected positions on governmental bodies with overlapping jurisdictional boundaries where one governmental body is responsible for a portion of the annual budget of the other governmental body?**

**What restrictions apply if one spouse is also employed by an Agency of the State?**

**What possible conflicts of interest are there regarding voting on issues germane to either governmental body by either official?**

**Is there conflict of interest on the part of the querist in the receipt of per diem?**

These specifics may be relevant:

The querist is currently an elected member of the Board of Directors of a state conservation district (CD) and is employed by a separate conservation/reclamation district (CRD.)

The spouse was recently elected to a City Council. Under the enabling legislation which created the CD, two of its five subdivisions are within the territorial limits of the city represented by the aforementioned city council, and is responsible for providing up to 40% of the annual fees received by the CD. This is mandated by the State Legislature. Neither the City nor the CD have any authority over this regulation.

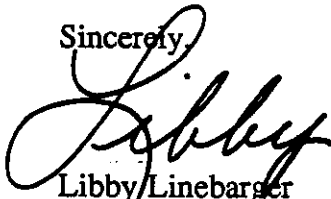
The CD has the authority (through its enabling legislation) to regulate groundwater pumpage within its jurisdiction and thus regulates the City's pumpage from City wells.

The spouse will receive an annual salary as a member of the City Council. The querist receives no salary as a board member of the CD, however there is a per diem provided by the enabling legislation of up to \$500.00 a month for meeting attendance.

The CRD is an agency of the State of Texas as opposed to a State Agency of the State of Texas. Its revenues are derived from the sale of electricity and water to wholesale customers within its jurisdictional boundaries while the CD derives its revenues from "user fees". Neither the CD nor the CRD receive any revenue from the general fund of the State of Texas.

Thank you for your prompt attention to this request. If more information is needed, please call (512) 463-0498.

Sincerely,

A handwritten signature in cursive script, appearing to read "Libby", written in dark ink.

Libby/Linebarger  
State Representative  
District 46

LL/tt